

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking Regarding the  
Implementation of the Suspension of Direct  
Access Pursuant to Assembly Bill 1X and  
Decision 01-09-060.

Rulemaking 02-01-011  
(Filed January 9, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING  
DENYING MOTION TO AUGMENT THE RECORD**

On August 13, 2004, Merced Irrigation District (Merced ID) filed a motion seeking to augment the record in the rehearing phase of the municipal departing load (MDL) proceeding to include responses to Merced ID discovery requests provided by Pacific Gas & Electric (PG&E) in Application (A.) 04-06-003 relating to the 2005 Energy Resource Recovery Account.

Although the requests were produced for another proceeding, Merced ID argues that the documents within the scope of this proceeding as established in the August 10, 2004 ALJ ruling regarding MDL issues set for further hearings. In particular, Merced ID argues that the documents are relevant to the determination of the amount municipal bypass load included in PG&E's Bypass Report, impacts of forecast load on DWR procurement, and on MDL cost responsibility obligations.

PG&E filed a response in opposition to the motion on August 30, 2004, arguing that the data responses appended to Merced ID's motion are not responsive to the issues in this proceeding. PG&E also argues that incorporating those data responses into the record here would likely create greater confusion

rather than clarity because PG&E's methodology used in 2000-2001 timeframe is different from the methodology currently used, as reflected in its responses to the data requests in A.04-06-003.

On August 31, 2004, Merced ID filed a third-round reply to PG&E's response pursuant to telephone authorization from the ALJ. Merced ID claims that PG&E either mischaracterized or misconstrued the motion, and reiterates that the data requests are relevant to the issues in the rehearing. In support of its claim, Merced ID references PG&E's Answer 5 of the discovery requests in which PG&E speaks of the amount of new load that located in its service territory between December 20, 1995 and February 1, 2001, but that took service from publicly owned utilities. Merced ID argues that this covers the same time frame at issue in this proceeding.

## **Discussion**

As a basis to resolve parties' dispute over the relevance of the discovery documents from A.04-06-003, an examination of the documents themselves is warranted. In order to warrant admission, the documents must be relevant to the limited scope of issues in this proceeding. As set forth in the ALJ ruling dated August 10, 2004, the relevant issues relate to PG&E's forecasts and related Department of Water Resources (DWR) procurement during the 2001 timeframe.

An examination of Question and Answer 3 and 4, however, indicates that the focus of these documents involves PG&E's current forecasts of DL covering the year 2005. Nothing in these particular documents show that they are probative of past forecasts that PG&E prepared and/or provided to DWR in connection with power procurement during the 2001 timeframe that are at issue in the rehearing phase of this proceeding.

An examination of Question and Answer 5 likewise indicates that its focus involves PG&E's current forecasts of DL covering the year 2005. Answer 5 does make reference to cumulative new electric load served by publicly-owned utilities between December 20, 1995 and February 1, 2001, incorporating the period covered by the rehearing proceeding. Nonetheless, the focus of the question is whether and how that cumulative load is accounted for in PG&E's current forecasts underlying A.04-06-003. As such, Answer 5 does not address how cumulative historic departing load may have figured into PG&E or DWR forecasts or procurement that are at issue in the rehearing.

Accordingly, Merced ID has not laid a proper basis to grant admission of the referenced data requests and responses from A.04-06-003 into this record. Particularly since PG&E's methodology used in 2000-2001 timeframe is different from the forecast methodology that it currently uses, those responses relate to issues outside of the limited scope of this proceeding. On that basis, Merced ID's motion is denied. As noted by PG&E, however, to the extent Merced ID gleaned information from those data responses that could be incorporated into cross-examination of PG&E's witnesses (within the scope of the proceeding and subject to objection by PG&E's counsel for cause), Merced ID may do so.

**IT IS RULED** that the Motion of Merced Irrigation District to augment the record is denied.

Dated September 3, 2004, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Augment the Record on all parties of record in this proceeding or their attorneys of record. In addition, service was also performed by electronic mail.

Dated September 3, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.